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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/760,567 | 01/20/2004 | Rickey D. Shinn | 165/20 | 1045 |

7590 11/23/2005
Schwartz Law Firm, P.C.
SouthPark Towers
Suite 530
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Charlotte, NC 28210

EXAMINER

MILLER, BENA B

ART UNIT PAPER NUMBER

3725

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

| | | | |
|------------------------------|-------------------------------|----------------------------------|--|
| Office Action Summary | Application No. 10/760,567 | Applicant(s) SHINN, RICKEY D. | |
| | Examiner Bena Miller | Art Unit 3725 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Bena Ma.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>04/22/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Toogood (US RE 36,659).

The device of Toogood reads on the structural claims of the invention including a rotatable base (90), a plurality of closed-sided tooth sockets having a substantially rectangular and generally flat bottom and four upright sides (108) and a plurality of tooth assemblies (150, 154, 156). It should be noted that the Examiner takes the position that the recessed box of Toogood has a length dimension that is greater than 2 times the width dimension and the depth of the tooth socket is greater than 1/16 inches.

Claims 1-4, 7, 8-13 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Oppelt et al (US Patent# 6,203,251).

The device of Oppelt et al reads on the structural claims of the invention including a rotatable base (1), a plurality of closed-sided tooth sockets having a substantially rectangular and generally flat bottom and four upright sides (12) and a plurality of tooth assemblies (2 and 3).

Claims 1-3, 8-12, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Proulx (GB2005170A).

The device of Proulx reads on the structural claims of the invention including a rotatable base (20), a plurality of closed-sided tooth sockets having a generally flat bottom and four upright sides (26) and a plurality of tooth assemblies (29,33).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6, 14, 15, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toogood.

In the event applicant disagrees with the rejection above, these claims do not appear to contain any additional features, which in combination with the features to any claim to which they refer, add anything novel. As such, it would have been an obvious design choice to one having ordinary skill in the art to add any of the claimed features to the prior art device.

Claims 5, 6, 14, 15, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oppelt et al.

In the event applicant disagrees with the rejection above, these claims do not appear to contain any additional features, which in combination with the features to any claim to which they refer, add anything novel. As such, it would have been an obvious design choice to one having ordinary skill in the art to add any of the claimed features to the prior art device.

Art Unit: 3725

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bena Miller
Primary Examiner
Art Unit 3725

bbm
November 21, 2005